

2011 DRAFTING REQUEST

Bill

Received: **06/17/2011**

Received By: **mshovers**

Wanted: **As time permits**

Companion to LRB:

For: **Jeremy Thiesfeldt (608) 266-3156**

By/Representing: **Hariah**

May Contact:

Drafter: **mshovers**

Subject: **Tax, Individual - income
Health - medical assistance**

Addl. Drafters: **tdodge**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Thiesfeldt@legis.wi.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Tax preferred accounts for children to set up financial support for parents

Instructions:

See Attached. Redraft 2005 AB 816, LRB -2800, and add AA 1, LRB a2080/1. Create Parental Assistance Savings System -- children invest deductible amounts in PASS accounts. Earnings accrue tax-free. Base on IRA model. Proceeds used by parents of contributors for health care costs

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 07/14/2011 tdodge 07/20/2011	wjackson 08/18/2011		_____			State Tax
/1			phenry 08/18/2011	_____	sbasford 08/18/2011	lparisi 08/30/2011	

FE Sent For:

at intro
9-29-11

<END>

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Received: 06/17/2011

Received By: mshovers

Wanted: As time permits

Companion to LRB:

For: Jeremy Thiesfeldt (608) 266-3156

By/Representing: Hariah

May Contact:

Drafter: mshovers

Subject: Tax, Individual - income

Addl. Drafters: TJD

Health-MA

Extra Copies:

Submit via email: YES

Requester's email: Rep.Thiesfeldt@legis.wi.gov

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Pre Topic:

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✓
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/?

mshovers

1 MD
8/9

1 WLj 8/12

8/18 ph
ph/15

<END>

FE Sent For:

Fiscal Estimate Narratives

DOR 11/21/2005

LRB Number	05-2800/1	Introduction Number	AB-816	Estimate Type	Original
Description					
Tax-exempt accounts for health care expenditures for an individual's parents					

Assumptions Used in Arriving at Fiscal Estimate

This bill would create a parental assistance health care expenses account that a sponsor (an adult with at least one living parent) could use to pay for health care expenses for the parent. The beneficiary of the account must be a parent of the sponsor.

Under the bill, a sponsor could deduct from his or her federal adjusted gross income up to \$2,000 each year for each beneficiary up to a total of \$4,000 annually, for deposits to the account. All gains that accrue to the account can also be deducted if the gains are redeposited into the account.

Health care expenses that could be paid for through the account include medical and dental, prescription drugs, and convalescent or custodial care provided to the parent in his or her home or in an institutional or community-based setting or care for a chronic condition or terminal illness.

If a beneficiary incurs health care expenses, the bill or the receipt if the bill has been paid, is to be submitted to the financial institution (any bank, savings bank, savings and loan association, or credit union) where the account was established for payment or reimbursement.

If a withdrawal is made for purposes other than the allowed expenses, the sponsor or beneficiary must pay a penalty equal to 10% of any accumulated interest, dividends, or other gain that has accrued to the account from the time it was opened. Also, the sponsor or beneficiary must pay tax on any interest, dividends, or other gain that accrues to the account in the year in which an improper withdrawal occurs.

Upon the death of all account beneficiaries, the account shall terminate and any amount remaining shall be returned to the sponsor. If no sponsor of the account is alive, any remaining amount shall pass to the beneficiary's estate.

The number of individuals who would open a parental assistance health care expenses account is unknown. Assuming a marginal tax rate of 5.5% and a maximum annual contribution of \$4,000, a taxpayer would be eligible for a maximum deduction of approximately \$220. The bill is expected to decrease existing revenues, but the fiscal effect is unknown.

Long-Range Fiscal Implications

Fiscal Estimate - 2005 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 05-2800/1		Introduction Number AB-816	
Description Tax-exempt accounts for health care expenditures for an individual's parents			
Fiscal Effect			
State:			
<input type="checkbox"/> No State Fiscal Effect			
<input type="checkbox"/> Indeterminate			
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Increase Existing Revenues	
<input type="checkbox"/> Decrease Existing Appropriations		<input checked="" type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriations		<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Decrease Costs	
Local:			
<input type="checkbox"/> No Local Government Costs			
<input type="checkbox"/> Indeterminate			
1. <input type="checkbox"/> Increase Costs		3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs		4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Government Units Affected			
<input type="checkbox"/> Towns		<input type="checkbox"/> Village <input type="checkbox"/> Cities	
<input type="checkbox"/> Counties		<input type="checkbox"/> Others	
<input type="checkbox"/> School Districts		<input type="checkbox"/> WTCS Districts	
Fund Sources Affected			
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS			
Affected Ch. 20 Appropriations			
Agency/Prepared By		Authorized Signature	
DOR/ Kirstin Nelson (608) 261-8984		Rebecca Boldt (608) 266-6785	
		Date	
		11/21/2005	

Fiscal Estimate Narratives

DHFS 12/28/2005

LRB Number 05-2800/1	Introduction Number AB-816	Estimate Type Original
Description Tax-exempt accounts for health care expenditures for an individual's parents		

Assumptions Used in Arriving at Fiscal Estimate

Assembly Bill 816 allows an adult child of a parent to establish an account for his/her parent to pay for health care expenses of the parent. For the purpose of determining Wisconsin taxable income, each year the sponsor of the account can deduct from his or her federal adjusted gross income an amount up to \$2,000 per beneficiary, and up to a total of \$4,000 annually for deposits to the account. All gains are also exempt from state taxes if the gains are re-deposited into the account. The accounts may be established at financial institutions. If a beneficiary incurs costs for health care services, the bill or receipt may be submitted to the managing financial institution that will either pay the bill or reimburse the payee. If the funds deposited in the account are used for a non medical expense, the sponsor or beneficiary must pay a penalty equal to 10% of any accumulated interest dividends or other gains. Upon death the account terminates and any amount left in the account becomes taxable and passes to the sponsor or to the estate of the beneficiary if the sponsor is not alive.

The fiscal impact of Assembly Bill 816 on the Department of Health and Family Services is indeterminate. These accounts would not be considered as an asset for Medicaid eligibility determination. However, depending on how the funds are utilized, in limited situations the funds could be considered income, which could affect cost sharing requirements for individuals determined eligible for Medicaid.

There would not be a strong incentive for individuals to establish these accounts for persons already enrolled in Medicaid since Medicaid provides comprehensive coverage. However, there may be an indirect effect on Medicaid if the existence of these accounts helps to expand access to health care for persons who would eventually become eligible for Medicaid as their health care costs increase. By improving access to health care, these accounts may help to improve health outcomes for the individual and delay the date that he or she applies for Medicaid. In addition, if an individual with one of these accounts becomes eligible for Medicaid and has not exhausted the balance in the account, the funds could be counted as a source for third party liability purposes. However, adequate data does not exist to estimate these impacts.

Long-Range Fiscal Implications

Hariah
wants to
try to ensure
this won't
happen

Fiscal Estimate - 2005 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 05-2800/1		Introduction Number AB-816	
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Affected Ch. 20 Appropriations			
Agency/Prepared By		Authorized Signature	
DHFS/ Curtis Cunningham (608) 266-5362		Andy Forsaith (608) 266-7684	
		Date	
		12/23/2005	

In: 7/20/11
2005-2006 LEGISLATURE

8750
-2252/1
LRB-2800/T
MES:KJTS
med.
+WLJ
f MNR

2011 2005 ASSEMBLY BILL 816

By Thursday 8/18
Wednesday

D-note

November 9, 2005 – Introduced by Representatives TOWNSEND, KRAWCZYK, VOS, HAHN, MCCORMICK, HUNDERTMARK, GUNDERSON, VAN ROY, PETROWSKI, AINSWORTH, NASS and SUDER, cosponsored by Senators ROESSLER and A. LASEE. Referred to Committee on Insurance.

Legen

- 1 AN ACT *to create* 71.05 (6) (a) 21., 71.05 (6) (a) 22., 71.05 (6) (b) 39., 71.07 (5) (a)
- 2 9., 71.10 (4) (k), 71.10 (10) and 71.83 (1) (ce) of the statutes; **relating to:**
- 3 tax-exempt accounts for health care expenditures for an individual's parents.

Analysis by the Legislative Reference Bureau

Under this bill, a sponsor (the adult child of a parent) may establish an account for his or her parent (beneficiary) to pay for health care expenses of the parent. "Health care expenses" is defined to mean medical and dental care expenses, prescription drugs, and care that is provided to the parent in his or her home or in institutional or community-based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness. The account may be established at a financial institution, such as a bank, savings and loan, or credit union, and consists of deposits and any interest or other gain on the deposits.

In determining Wisconsin taxable income each year, the bill authorizes a sponsor to deduct from his or her federal adjusted gross income an amount of up to \$2,000 per beneficiary, and up to a total of \$4,000 annually, for deposits to the account. All gains that accrue to such an account are also tax-exempt if the gains are redeposited into the account.

If a beneficiary incurs costs for health care expenses, the bill, or the receipt if the bill has been paid, may be submitted to the financial institution, and the financial institution ~~is required to~~ pay the bill or reimburse the payee if sufficient funds are in the account. *

must

If any amount is withdrawn from the account by, or at the direction of, a sponsor or beneficiary and is used for any purpose other than the allowed purposes, the

ASSEMBLY BILL 816

Analysis - TJD
TAX-EXM
sponsor or beneficiary must pay a penalty equal to 10 percent of any accumulated interest, dividends, or other gain that has accrued to the account from the time that the account was opened. In addition, the sponsor or beneficiary must pay taxes on any interest, dividends, or other gain that accrues to the account in the year in which an improper withdrawal occurs. Upon the death of all beneficiaries, the account terminates and any amount left in the account becomes taxable and passes to the sponsor, if he or she is alive, or to the estate of the beneficiary if the sponsor is not alive.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

Ins 1-TJD
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 71.05 (6) (a) ²⁵~~21~~ of the statutes is created to read:

2 71.05 (6) (a) ²⁵~~21~~ Except as provided in subd. ²⁶~~22~~, any accumulated interest,
3 dividends, or other gain that accrues from an account described under s. 71.10 (10)
4 during the taxable year in which a withdrawal occurs from such an account if any
5 amount of the money or other assets in the account is withdrawn by, or at the
6 direction of, a sponsor or beneficiary for any reason other than the payment of health
7 care expenses, as defined in s. 71.10 (10) (a) 3., for the account beneficiary.

8 SECTION 2. 71.05 (6) (a) ²⁶~~22~~ of the statutes is created to read:

9 71.05 (6) (a) ²⁶~~22~~ Upon the termination of an account under s. 71.10 (10) (d), any
10 amount in the account ~~which~~ ^{that} is returned to a sponsor, as defined in s. 71.10 (10) (a)
11 4., or ~~which~~ ^{that} passes to the estate of a beneficiary, as defined in s. 71.10 (10) (a) 1.

12 SECTION 3. 71.05 (6) (b) ⁴⁸~~39~~ of the statutes is created to read:

13 71.05 (6) (b) ⁴⁸~~39~~ An amount of up to \$2,000 each year for each beneficiary, up
14 to a total deposit of \$4,000 each year, that is deposited by a sponsor into an account

ASSEMBLY BILL 816

described under s. 71.10 (10), and any interest, dividends, or other gain that accrues in the account if the interest, dividends, or other gain is redeposited into the account.

SECTION 4. 71.07 (5) (a) 9. of the statutes is created to read:

71.07 (5) (a) 9. The amount claimed as a deduction for unreimbursed medical expenses under section 213 (a) of the Internal Revenue Code to the extent that the funds used to pay for the unreimbursed expenses for which the deduction was claimed were withdrawn from an account described under s. 71.10 (10).

SECTION 5. 71.10 (4) (k) of the statutes is created to read:

71.10 (4) (k) Any amount of money or other assets computed under s. 71.83 (1)

(k). ch

SECTION 6. 71.10 (10) of the statutes is created to read:

71.10 (10) PARENTAL ASSISTANCE HEALTH CARE EXPENSES. (a) *Definitions*. In this subsection:

1. "Beneficiary" means a parent of a sponsor.

For whom an account is established under this section

2. "Financial institution" means any bank, savings bank, savings and loan association, or credit union that is authorized to do business under state or federal laws relating to financial institutions.

3. "Health care expenses" means expenses incurred by a beneficiary for any of the following:

a. Medical or dental care expenses.

b. Prescription drugs.

c. Care that is provided to a beneficiary in the beneficiary's home or in institutional or community-based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness.

ASSEMBLY BILL 816

SECTION 6

1 4. "Sponsor" means an adult child who establishes an account under this
2 subsection.

3 (b) *Establishment of account.* A sponsor may establish an account for health
4 care expenses, for his or her parent, in a financial institution. Except as provided in
5 par. (d), amounts deposited into such an account and any interest, dividends, or other
6 gain that accrues on amounts deposited into the account may be used only to pay
7 health care expenses of a beneficiary.

8 (c) *Payment of claims.* If a beneficiary incurs costs for health care expenses
9 the beneficiary, the sponsor, or the entity providing the goods or services to the
10 beneficiary may submit the bill, or the receipt if the beneficiary or sponsor has paid
11 for the health care expenses, to the financial institution at which the account created
12 under this subsection is established. The financial institution shall pay the bill, or
13 ~~reimburse the beneficiary or sponsor, if sufficient funds to do so are in the account.~~

14 (d) *Termination of account.* 1. Upon the death of all beneficiaries of an account,
15 the account shall terminate and any amount remaining in the account shall be
16 returned to the sponsor if he or she is still alive.

17 2. Upon the death of all beneficiaries of an account, the account shall terminate
18 and any amount remaining in the account shall pass to the beneficiary's estate if no
19 sponsor of the account is alive.

20 SECTION 7. 71.83 (1) (a) of the statutes is created to read:

21 71.83 (1) (a) ^{ch} ~~Parental assistance health care~~ ^{expenses} ~~account withdrawals.~~ If a sponsor
22 or beneficiary, as ^{defined under} ~~those terms are used in~~ s. 71.10 (10) (a), is required to add any
23 amount to federal adjusted gross income under s. 71.05 (6) (a) ²¹, the ^{individual} ~~individual~~
24 shall also pay an amount equal to 10 percent of any accumulated interest, dividends,
25 or other gain that has accrued beginning on the date on which the account was

^{as defined under}
s. 71.10 (10) (a) 405

^{Sponsor or beneficiary}

ASSEMBLY BILL 816

1 opened and ending on the date on which the withdrawal from the account occurs that ✓
2 results in the sponsor or beneficiary adding an amount under s. 71.05 (6) (a) ²⁵✓ The
3 department of revenue shall assess, levy, and collect the penalty under this
4 ✓ paragraph as it assesses, levies, and collects taxes under this chapter.

SECTION 8. Initial applicability.

6 (1) This act first applies to taxable years beginning on January 1 of the year
7 in which this subsection takes effect, except that if this subsection takes effect after
8 July 31 this act first applies to taxable years beginning on January 1 of the year
9 following the year in which this subsection takes effect.

10 (END)

D-note

**ASSEMBLY AMENDMENT 1,
TO 2005 ASSEMBLY BILL 816**

INS 4-13

February 7, 2006 - Offered by Representative TOWNSEND

At the locations indicated, amend the bill as follows:

1. Page 4, line 8: delete lines 8 to 13 and substitute:

"(c) Payment of claims. If a beneficiary incurs costs for health care expenses, the beneficiary, the sponsor, or the entity providing the goods or services to the beneficiary may submit a form, created by the department of revenue, that summarizes the costs incurred and payment and beneficiary information, along with a copy of the bill, or a copy of the receipt if the beneficiary or sponsor has paid for the health care expenses, to the financial institution at which the account created under this subsection is established. The financial institution shall pay the bill, or reimburse the beneficiary or sponsor, if sufficient funds to do so are in the account."

(END)

INS
4-13

**2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2252/lins
TJD:.....

1 **INSERT ANALYSIS-TJD**

The bill also requires that the Department of Health Services request and implement any waiver of federal Medicaid laws or state plan amendment necessary to exempt the account from liability as a third party for payments under the Medical Assistance program.

(END INSERT ANALYSIS TJD)

2 **INSERT 1-TJD**

3 **SECTION ~~#~~ 49.45** (17m) of the statutes is created to read:

4 **49.45 (17m)** EXEMPTION FROM THIRD PARTY LIABILITY. The department shall
5 request and implement any waiver of federal Medicaid laws or state plan
6 amendment necessary to exempt from third party liability for payments under
7 Medical Assistance the accounts under s. 71.10 (10).

8 **SECTION ~~#~~ 49.475** (1) (f) (intro.) of the statutes is amended to read:

9 **49.475 (1) (f) (intro.)** "Third party" means an entity that by statute, rule, or
10 contract is responsible for payment of a claim for a health care item or service, except
11 an account under s. 71.10 (10). "Third party" includes all of the following:

History: 1991 a. 39; 1999 a. 9; 2007 a. 20 ss. 1610 to 1626, 9121 (6) (a).

(END INSERT 1-TJD)

Medical Assistance

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2252/1dn

TJD:.....

med
+WLj

Date

To Hariah

✓
Hutkowski:

This draft contains a provision addressing the use of the account as third^{party} liability for purposes of Medical Assistance payments. You may want to ask the Department of Health Services if this provision is sufficient to exempt these accounts from those payments.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2252/1dn
TJD:med&wlj:ph

August 18, 2011

To Hariah Hutkowski:

This draft contains a provision addressing the use of the account as third-party liability for purposes of Medical Assistance payments. You may want to ask the Department of Health Services if this provision is sufficient to exempt these accounts from those payments.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

• **Parisi, Lori**

From: Hutkowski, Hariah
Sent: Monday, August 29, 2011 3:39 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-2252/1 Topic: Tax preferred accounts for children to set up financial support for parents

Please Jacket LRB 11-2252/1 for the ASSEMBLY.